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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,969	02/04/2004	Ligia A. Rivera	659/2240	3833

7590 08/25/2005

PETER BRUNOVSKIS  
BRINKS HOFFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, IL 60610

EXAMINER
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THOMAS, ALEXANDER S

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/771,969

Applicant(s)

RIVERA ET AL.

Examiner

Alexander Thomas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 81-100 and 111-122 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 81-100 and 111-122 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Double Patenting***

1. Claims 81-87, 101, 102, 104, 111-114, 119 and 120 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 41 of copending Application No. 10/664342. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the reasons of record.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

2. Claims 90-98, 106, 107, 109, 115-118, 121 and 122 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 41 of copending Application No. 10/664342 in view of Nissing et al ('834). Applicant's arguments have been considered but are not deemed persuasive for the reasons of record.

This is a provisional obviousness-type double patenting rejection.

3. The terminal disclaimer filed on 8/8/05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 6,649,262 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Claim Rejections - 35 USC § 112***

4. Claims 88, 89, 99 and 100 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject

matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no original disclosure directed to a peel force between the wipes in the roll in the claimed amounts. The original disclosure is directed to an amount of "at least about 100 grams" for peel force between wipes.

5. Claims 111 and 112 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. An inconsistency exists between these claims and the claims upon which they depend. The term "about 1" in claims 111 and 112 is broader in scope than the claim upon which they depend. Correction is required.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 81-89, 111-114, 119 and 120 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicants' acknowledged state of the art in view of Gordon et al 5,763,332. The primary reference discloses the invention substantially as claimed, namely a roll of wet wipes with perforated sheets; see page 1, lines 24-28 of the instant specification. The secondary reference discloses the desirability of the use of a sodium

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chloride containing composition on wet wipes; see Example III. It would have been obvious to one of ordinary skill in the art to use the antibacterial composition of the secondary reference on the article of the primary reference to provide a wet wipe with enhanced cleaning properties. Regarding the size of the roll, it would have been obvious to one of ordinary skill in the art to adjust the size of the wet wipes to accommodate a particular end use of the wipe. It would have been obvious to one of ordinary skill in the art to vary the peel force between the wipes to any specific amount to provide the desired peel properties for a particular end use.

2. Claims 90-100, 115-118, 121 and 122 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicants' acknowledged state of the art in view of Gordon et al 5,763,332 as applied to claims 81-89, 111-114, 119 and 120 above, and further in view of Nissing et al. Nissing et al disclose the desirability of providing transverse grooves in wet wipe material to aid in cleaning surfaces; see column 1, lines 21-33 and Figure 5b. It would have been obvious to one of ordinary skill in the art to provide grooves in the wet wipe of the prior art article in order to increase its ability to clean surfaces.

### ***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Alexander S. Thomas". The signature is fluid and cursive, with the first name "Alexander" being more prominent than the last name "Thomas".

ALEXANDER S. THOMAS  
PRIMARY EXAMINER